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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,541	10/16/2000	Kazuhiro Shimoda	09792909-4652	3044

26263 7590 03/05/2003

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EXAMINER

MARKHAM, WESLEY D

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 03/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/688,541

Applicant(s)

SHIMODA ET AL.

Examiner

Wesley D Markham

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 February 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached Office Action.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 9-16.

Claim(s) withdrawn from consideration: 1-4.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

WDM



Continuation of 10. Other: The corrected formal drawings (2 sheets) submitted on 2/24/2003 are approved by the examiner..

DETAILED ACTION / ADVISORY ACTION

Response to Amendment

1. Acknowledgement is made of applicant's proposed amendment D, filed as paper #14 on 2/24/2003, in which the applicant proposed to cancel Claims 12 – 16 without prejudice or disclaimer, amend independent Claims 9 and 10 and dependent Claim 11, and add new Claim 17. However, this amendment has not been entered because it raises new issues that would require further searching and consideration. Specifically, the applicant's proposed amendment to independent Claims 9 and 10 would change the scope of the claims pending in the instant application and therefore would require further searching and consideration. In addition, proposed new Claim 17 would require a lower refractive index layer of SiO_2 and a higher refractive index layer of Nb_2O_5 . Since this limitation has not previously been present in the claims of the instant application, such a limitation would require further searching and consideration. However, the examiner does wish to note that, upon initial examination, the applicant's proposed amendment to more clearly and accurately describe and define the applicant's invention as recited in the claims of the instant application would appear to be sufficient to overcome the prior art presently of record. However, as noted above, such an amendment would require further searching and consideration on the part of the examiner, and therefore has not been entered.

Drawings

2. The corrected formal drawings (2 sheets, Figures 14 and 15) submitted by the applicant on 2/24/2003 as paper #15 are acknowledged and approved by the examiner.

Response to Arguments

3. Applicant's arguments filed on 2/24/2003 have been fully considered but they are not persuasive. Specifically, the majority of the applicant's arguments appear to be drawn to the claims as proposed in amendment D. However, as this amendment has not been entered for the reasons set forth in paragraph 1 above, these arguments are moot. To the extent that the applicant's arguments relate to the claims currently pending in the instant application (i.e., the claims prior to proposed amendment D), the applicant's arguments mirror the arguments filed with amendment C, paper #11, on 8/13/2002. As such, these arguments have been addressed in paragraphs 11 – 17 of the previous Office Action (i.e., the final Office Action, paper #13, mailed on 10/23/2002).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wesley D Markham whose telephone number is (703) 308-7557. The examiner can normally be reached on Monday - Friday, 8:00 AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Wesley D Markham
Examiner
Art Unit 1762



WDM
February 28, 2003



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